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ABSTRACT

Considerations in estate planning for learning disabled children are presented from the perspective of an individual who is both a lawyer and the parent of a learning disabled child. It is suggested that an important goal for parents is to train the child to be able to deal with his/her financial situation. Early training in the habit of saving money and paying one's own expenses is discussed. Examples of such training are presented--such as making transactions at flea markets--and the growth such experiences offer the learning disabled child is noted. It is suggested that learning disabled people who are trained to some degree of financial independence do not need lifetime trusts, which have several disadvantages such as lack of flexibility, damaging effects of inflation, and sibling discontent if the sibling is made a trustee. Such a trust may also hurt the learning disabled child's sense of self worth. Consideration of a partial trust or custodianship arrangement is advocated. The importance of sharing decision making with the child is emphasized. (CL)

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ESTATE PLANNING FOR PARENTS OF A LEARNING DISABLED CHILD

Robert Whitman

INTRODUCTION

IT IS MY PLEASURE TO BE HERE WITH YOU AND TO SPEAK WITH
YOU AND SHARE MY VIEWS ON ESTATE PLANNING FOR PARENTS OF A
LEARNING DISABLED CHILD.

AS A LAW PROFESSOR, PRACTICING LAWYER IN THE ESTATE
PLANNING FIELD, AND THE FATHER OF A LEARNING DISABLED CHILD,
HOPEFULLY, I CAN GIVE YOU SOME "FOOD FOR THOUGHT" AND, AFTER
SPEAKING TO YOU FOR ABOUT 30 MINUTES, ANSWER SPECIFIC QUESTIONS
THAT YOU MAY HAVE.

KATHY LORIO

WITH ME THIS AFTERNOON FOR PURPOSES OF DEALING WITH YOUR
QUESTIONS--THAT WE WILL TAKE UP RIGHT AFTER THIS PRESENTATION--
IS PROFESSOR KATHERINE LORI. SHE IS A LAW PROFESSOR AT LOYOLA
LAW SCHOOL, HERE IN NEW ORLEANS, AND, IF NECESSARY, SHE WILL BE
ABLE TO SPEAK SPECIFICALLY TO QUESTIONS RAISED ON LOUISIANA
LAW AS WELL AS YOUR OTHER MORE GENERAL QUESTIONS.

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DEFINITIONS

TO GET STARTED, I WANT TO CLARIFY THE AREA THAT I WILL BE SPEAKING ABOUT TODAY.

TO DO THIS, I NEED TO START BY NARROWING FOCUS,

"LEARNING DISABILITY" IS NOT A PRECISE TERM.

SHORTLY AFTER THE TITLE OF THIS TALK WAS ANNOUNCED, I HAD A LETTER FROM A LADY IN NEW JERSEY--AND I THEN SPOKE WITH HER BY TELEPHONE.

SHE HAD QUESTIONS ABOUT SSI--SUPPLEMENTAL SOCIETY SECURITY-- AND ABOUT THE APPOINTMENT OF A GUARDIAN OR CONSERVATOR FOR AN ADULT (SOMEONE OVER 18 OR 21--DEPENDING ON STATE LAWS' DETERMINATION OF WHEN SOMEONE IS AN ADULT).

IN OTHER WORDS SHE WANTED TO DEAL WITH SOMEONE WHO NOT ONLY HAD A DISABILITY--BUT WAS ALSO "DISABLED".

I TOLD THE LADY THAT I DID NOT PLAN TO SPEAK ABOUT THOSE
MATTERS--THAT THESE ^{NOT} THINGS I HAVE TALKED ABOUT IN SPEAKING WITH
GROUPS OF PARENTS OF MENTALLY RETARDED CHILDREN.

WELL, THE LADY SAID HER CHILD IS MENTALLY RETARDED AND
LEARNING DISABLED ALSO.

SO, LET ME CLARIFY--I AM NOT IN ANY WAY NOW DEALING WITH A
CHILD WHO IS MENTALLY RETARDED.

AND I AM NOT DEALING WITH A CHILD WHO HAS A SEVERE
EMOTIONAL PROBLEM.

BUT I AM TALKING ABOUT CHILDREN WITH "SERIOUS" LEARNING
DISABILITY--AND NOT NECESSARILY EXTREMELY BRIGHT CHILDREN
THAT ARE ALWAYS SHOWCASED.

WE HAVE, FOR INSTANCE, AT MY LAW SCHOOL--THE UNIVERSITY OF CONNECTICUT SCHOOL OF LAW--A YOUNG LADY IN THE FIRST YEAR LAW CLASS--WHO IS LEARNING DISABLED.

SHE HAS DIFFICULTY WITH READING, BUT IS, OBVIOUSLY, HIGHLY INTELLIGENT. WE ARE NOT TALKING ABOUT HER BECAUSE HER HIGH INTELLECTUAL ABILITY SHOULD CLEARLY ALLOW HER TO SUCCEED FINANCIALLY.

AS I SEE IT, WHILE EVERY CHILD IS UNIQUE--I AM TALKING ABOUT A LARGE GROUP OF YOUNGSTERS WHO HAVE SERIOUS LEARNING DISABILITY--SERIOUS DIFFICULTY WITH READING AND MATH--WHO ARE NOT TALENTED ACADEMICALLY--WHO HAVE MANY LEARNING DISABILITY SYMPTOMS AND WHO WILL BE PLAGUED BY THESE DIFFICULTIES THROUGHOUT LIFE. THIS IS THE LARGEST GROUP OF LEARNING DISABLED CHILDREN.

A PERSON WITHIN THIS GROUP MAY NOT BE ABLE TO EFFECTIVELY DEAL WITH A HOST OF JOBS AVAILABLE IN OUR SOCIETY. BASIC CLERICAL JOBS DEALING WITH MATH AND NUMBERS MAY BE OUT. JOBS REQUIRING ANALYTICAL SKILLS MAY BE OUT. BUT THEN, IF TRAINED WELL, THERE ARE A NUMBER OF JOBS OR BUSINESSES THAT THIS INDIVIDUAL MAY ^{MASTER and even} EXCEL IN. THE PERSON, IF EMOTIONALLY SOUND, WILL BECOME A HAPPY AND PRODUCTIVE MEMBER OF OUR SOCIETY.

PARENTS

NOW THE PARENTS OF OUR HYPOTHETICAL LEARNING DISABLED CHILD.

THESE ARE MIDDLE-CLASS PEOPLE. WE ARE NOT DEALING WITH THE SUPER-RICH OR THE SUPER-POOR.

IN SUMMARY

SO, IN SUMMARY, WE ARE FOCUSING ON A MID-RANGE LEARNING DISABLED CHILD OF MID-RANGE PARENTS. IF YOU WILL, YOUR TYPICAL MID-RANGE FAMILY.

CHANGE ONE OR MORE OF THE ASSUMPTIONS AND THINGS RADICALLY CHANGE. IF, FOR INSTANCE, THE PARENTS ARE DIVORCED, OR SEPARATED, OR THERE HAS BEEN A REMARRIAGE, OR THE GRANDPARENTS ARE MAKING SPECIAL ARRANGEMENTS OR YOU HAVE OTHER FAMILY MEMBERS WITH OTHER PROBLEMS, YOU MAY HAVE A VERY DIFFERENT SITUATION. CERTAINLY, IF THERE IS DENIAL OF THE PROBLEM--IF YOU HAVE A "CLOSET" LEARNING DISABLED CHILD (WHERE THERE IS A REFUSAL TO ADMIT THAT THE PROBLEM EXISTS--)
YOU DO HAVE A DIFFERENT PROBLEM.†

THE CENTRAL ISSUE

BUT—TO SPEAK TO THE MID RANGE—IN MANY CASES YOU COME TO THE SAME CENTRAL ISSUES SURROUNDING ESTATE PLANNING:

1. DO YOU FAVOR THE LEARNING DISABLED CHILD OVER OTHER CHILDREN?
2. DO YOU LEAVE THE CHILD'S SHARE IN LONG TERM TRUST?

CAN THE GROWN LEARNING DISABLED CHILD EFFECTIVELY DEAL WITH HIS OR HER OWN FINANCIAL PLANNING? CAN HE OR SHE BE TRUSTED TO HANDLE MONEY? CAN THE PARENTS TAKE THE RISK? SHOULD THE PARENTS TAKE THE RISK?

THESE, I THINK, ARE CENTRAL QUESTIONS WHICH I WOULD LIKE TO SPEAK ABOUT TODAY.

HOPEFULLY, IF ONE OR BOTH OF THE PARENTS LIVE LONG ENOUGH THE MATTER WILL EVENTUALLY RESOLVE ITSELF. IF THE PARENTS ARE IN THEIR 80'S AND THE CHILD IS IN THE 50'S, THEY SHOULD HAVE THE ISSUES WORKED OUT. IF WE LIVE TO SEE OUR CHILDREN REACH AGE 50 WE KNOW A LOT MORE ABOUT THEM AND THEIR CAPACITIES--THAN WHEN THE CHILD WAS 12.

BUT SUPPOSE THE CHILD IS 12 AND THE PARENTS ARE DOING A WILL. AND THE QUESTION COMES UP--SUPPOSE BOTH PARENTS DIE?
 SURE, IT WILL BE STANDARD TO PROVIDE FOR ^{CURRENTLY, AND FOR} A TRUST FOR ANY CHILD UNTIL 18 OR 21 OR 23 OR 25--BUT WHERE DOES ONE GO FROM THERE? THIS CALLS FOR A JUDGMENT CALL. ~~AN~~ ACT OF FAITH, OR A DETERMINATION THAT WE CANNOT "TRUST" THIS SPECIAL CHILD--WE WILL NEED TO ESTABLISH IN THE WILL A VERY LONG TERM TRUST--OR A TRUST FOR LIFE.

THE SAFE WAY

NOT TOO LONG AGO I ATTENDED A TALK ON ESTATE PLANNING AND THE LAWYER ON THE PANEL HAD THIS ISSUE WORKED OUT IN A VERY SIMPLE WAY.

THE ADVICE WAS NEVER TRUST ANY CHILD WITH ANY SIGNIFICANT MONEY--NEVER ALLOW FOR THE POSSIBILITY OF A SITUATION WHERE A CHILD--THAT IS SOMEONE LESS THAN 30 OR 40--WOULD EVER GET THEIR HANDS ON ANY MONEY (I.E. ANYTHING OVER SEVEPAL THOUSANDS OF DOLLARS) BECAUSE THE CHILD MIGHT WELL BLOW IT. HE OR SHE MIGHT JUST BUY A FANCY CAR, GIVE IT AWAY, SPEND IT, GAMBLE IT OR DRINK IT UP.

TAKE A RISK

MY ADVICE TO YOU, TODAY, RUNS IN THE OPPOSITE DIRECTION. I WOULD URGE PARENTS AND PROFESSIONALS TO STRIVE TOWARDS A GOAL THAT WOULD ALLOW PARENTS TO PUT MONEY--SIGNIFICANT MONEY--INTO THE HANDS OF A LEARNING DISABLED CHILD AT A RELATIVELY YOUNG AGE. I WOULD ALSO SET UP AS ANOTHER GOAL THE CREATION OF AN ESTATE PLAN THAT DOES NOT MAKE USE OF A LONG TERM TRUST--OR, AT LEAST, DOES NOT USE SUCH A LONG TERM TRUST FOR ALL OF THE MONEY BEING LEFT TO A LEARNING DISABLED CHILD.

THE FACT IS THAT I PERSONALLY KNOW OF AN INDIVIDUAL--AGE 19--AN ADULT IN CONNECTICUT--WHO RECEIVED SOME \$34,000 AS AN AWARD STEMMING FROM AN ACCIDENT CLAIM. THE INDIVIDUAL RAN THROUGH ALL OF THAT MONEY WITHIN TWO MONTHS--BUT THIS INDIVIDUAL WAS NOT A LEARNING DISABLED CHILD.

A SPENDTHRIFT - YES
LEARNING DISABLED - NO.

THE CENTRAL IDEA THAT I AM STATING IS THAT LEARNING DISABLED DOES NOT EQUAL SPENDTHRIFT AND IT NEED NOT EQUAL POORLY TRAINED TO HANDLE MONEY.

I BELIEVE THAT ONE IMPORTANT GOAL FOR PARENTS OF A LEARNING DISABLED CHILD SHOULD BE TO TRAIN THE CHILD TO BECOME "INDEPENDENT" AND TO BE ABLE TO DEAL WITH HIS OR HER FINANCIAL SITUATION.

IT IS AN EXTREMELY IMPORTANT GOAL BECAUSE IT GOES TO THE CENTRAL QUESTION FOR THIS CHILD--WILL HE OR SHE HAVE AN INDEPENDENT LIFE?

IF THIS IS AN IMPORTANT GOAL, IT MUST, AS WITH MANY GOALS, BE ADDRESSED EARLY, IN AN INTELLIGENT MANNER WITH LOTS OF PATIENCE AND LOTS OF UNDERSTANDING.

HOW EARLY CAN ONE START THE NEEDED ECONOMIC TRAINING?

WE ARE LIKELY SPEAKING ABOUT SOMEONE WHO WILL HAVE A GOOD DEAL OF TROUBLE COUNTING MONEY, ADDING PRICES, UNDERSTANDING VALUES AND BOTHERING WITH DISCIPLINED SPENDING, BUDGETING, OR ECONOMIZING.

THIS PROCESS IS GOING TO TAKE TIME.

THERE ARE SOME BIG TRAPS ALONG THE WAY: LIKE

POOR CHILD - HE OR SHE HAS LEARNING DISABILITY--LET HIM HAVE THE EXTRA PRESENT--THE EXTRAVAGANT EXPENSE--LET'S PREFER THE CHILD OVER OUR OTHERS--SOMEHOW IT MAY MAKE UP FOR THINGS. IT WILL PROVE OUR LOVE.

SIMPLE CHILD- WE CAN NEVER EXPECT HIM OR HER TO DEAL WITH THESE THINGS. LET'S PRETEND WE WILL ALWAYS BE AROUND TO TAKE CARE OF THESE PROBLEMS. LET'S NOT ADD ^{their child's} OTHER BURDENS.

FOOLISH CHILD - HE OR SHE WILL WASTE THE MONEY—GIVE IT AWAY, SPEND IT--HE OR SHE CAN NEVER BE TRUSTED.

NAUGHTY CHILD - HE OR SHE PURPOSELY OVERSPENT. HE OR SHE PURPOSELY DOES WRONG.

DISAPPOINTING CHILD - I WOULD HAVE AT LEAST EXPECTED YOU TO BE ABLE TO DO THIS RIGHT. YOU DON'T TRY HARD ENOUGH. YOU WILL NEVER TRY HARD ENOUGH TO SATISFY US.

AT BOTTOM-LEARNING DISABILITY PRESENTS A CHILD WITH THE MAJOR PROBLEM OF CREATING AN EGO--A FEELING OF SELF WORTH.

IF THESE TRAPS--AND OTHERS LIKE THEM--ARE FALLEN INTO-- THEY WILL HELP DESTROY THAT EGO AND FURTHER REDUCE THE SELF WORTH.

BUT IF OVER TIME FINANCIAL INDEPENDENCE IS ACHIEVED--HERE IS SOMETHING JUSTLY WORTH BEING PROUD OF.

I AM NOT TALKING ABOUT THE CHILD NEEDING TO GROW UP TO MAKE TONS OF MONEY, DRIVE FANCY CARS AND LIVE IN FANCY HOUSES. I AM TALKING ABOUT THE CHILD BEING ABLE TO WORK, TAKE CARE OF HIMSELF OR HERSELF, PAY THE BILLS, MEET THE EXPENSES AND SAVE SOME MONEY FOR A RAINY DAY.

BEYOND THAT, WE ALL KNOW THAT WHATEVER ELSE MAY COME DEPENDS ON A WHOLE SET OF CIRCUMSTANCES, INCLUDING LUCK.

O.K. -- WHERE DOES THIS TRAINING FOR FINANCIAL INDEPENDENCE BEGIN? CERTAINLY, I THINK AGE 6 IS NOT TOO EARLY.

FIRST, A FUNDAMENTAL DIFFERENCE IN PEOPLE

SOME ARE SPENDERS--SOME ARE SAVERS.

I HAVE SEEN IT SAID THAT LEARNING DISABLED CHILDREN ARE BORN WITHOUT NATURAL FINANCIAL CONTROLS--THAT THEY ARE SPENDERS-- BUT THAT THIS LACK OF NATURAL CONTROL CAN BE MADE UP FOR BY TRAINING.

I AM NOT SURE ABOUT THE FIRST STATEMENT--BUT I AM QUITE SURE THAT TRAINING CAN WORK.

consider the kinds of statements that can be made by parents:

"I AM PROUD OF YOU - YOU SAVED MONEY."

"WE WILL SAVE THIS FOR LATER."

"WE ARE ALL SAVERS - BUT YOU ARE ONE OF THE BEST."

"TEACH YOUR BROTHER (OR SISTER) TO BE AS GOOD A SAVER AS YOU ARE."

"LET ME TELL YOU HOW GOOD HE (OR SHE) IS AT SAVING."

COMBINED WITH INSTALLING THE SAVINGS HABIT, THERE NEEDS TO BE DEVELOPED A SENSE OF FINANCE.

THE LEMONADE STAND IS SOMETHING WE USED WITH OUR SON. IT TEACHES MANY, MANY LESSONS.

THE CASH BOX AS A TOY--THE CHANGE MAKER TOY--THE KIND A BUS DRIVER USED TO USE.

THE TRIPS TO THE GROCERY STORE IN WHICH THE CHILD SELECTS THE CHEAPEST CAN OF PEAS--THE LEAST EXPENSIVE LOAF OF BREAD.

THE SELLING OF LIGHT BULBS FOR THE BOY SCOUTS. OUT OF 100 PEOPLE YOU APPROACH AT THE SHOPPING CENTER, HOW MANY WILL BUY LIGHT BULBS? IF YOU TRY IT, YOU FIND IT TAKES TIME TO SELL THOSE LIGHT BULBS. AFTER AWHILE WE FOUND MY SON AVERAGED 3 SALES FOR EVERY 100 PEOPLE WHO WALKED BY -- 97 DID NOT WANT ANY--BUT 3 DID.

IT TAKES TIME TO SELL THOSE LIGHT BULBS--IT TAKES
PLANNING
DETERMINATION, AND
PATIENCE

BUT IN THE END--ALMOST LIKE CLOCKWORK--ABOUT 3 OUT OF
100 PEOPLE BUY. ONCE YOU GET THE SENSE OF THAT, YOU KNOW SOMETHING
SPECIAL. YOU HAVE EXPERIENCE. YOU FIND YOU ARE A GOOD
SALESPERSON. YOU CAN DO IT.

ALL WILL NOT GO EASILY.

THE FIRST TRIP TO THE BOWLING ALLEY FOR MY SON AND ANOTHER
LEARNING DISABLED CHILD WAS A DISASTER.

THEY JUST BOWLED AS MUCH AS THEY WANTED AND THEN FOUND
THEY DID NOT HAVE ENOUGH MONEY TO PAY. THEY COULD NOT BEGIN TO
COPE WITH HOW TO DEAL WITH PROBLEM OF WHAT BOWLING COST.
WE HAD UNDERESTIMATED THE PROBLEM.

THE NEXT TIME THEY WENT, IT WAS HANDLED DIFFERENTLY. THEY STILL WERE GIVEN FULL CHARGE OF THEIR MONEY. WE JUST CHANGED THE INSTRUCTIONS. BEFORE THEY BOWLED A GAME THEY PAID FOR IT IN ADVANCE. THUS, ALTHOUGH THEY STILL COULD NOT FIGURE OUT THE MONEY IN AN ABSTRACT WAY, AT LEAST THEY WERE ABLE TO BOWL AND NOT OVERSPEND. A SPECIAL SYSTEM WAS CREATED TO MEET A SPECIAL NEED.

WHEN MY SON WAS ABOUT 8 YEARS OLD, WE STUMBLED ONTO THE FLEA MARKET BUSINESS.

BECAUSE MY WIFE IS AN INTERIOR DESIGNER, I WAS ALWAYS INTERESTED IN ANTIQUES AND GOING TO SHOWS. FINALLY, I DID A SHOW AND AT THAT SHOW THERE WAS A FELLOW WHO SOLD HELMETS FROM THE WORLD WARS.

I HAD BOUGHT A GERMAN HELMET FOR MY SON AT A TAG SALE FOR 25 CENTS. THIS FELLOW HAD SIMILAR HELMETS WITH PRICES OF \$40 - \$60.

WE SUGGESTED TO MY SON THAT HE CONSIDER SELLING HIS HELMET TO THE MAN.

IT WAS A GREAT LESSON BECAUSE IT WAS MY SON'S HELMET--
MY SON'S DEAL--HE CONTROLLED. BY PRE-ARRANGEMENT, MY SON DECIDED
HE WOULD SELL IF HE COULD GET \$10--BUT NOT FOR LESS.

HE KEPT REPEATING--UNDER \$10 I DON'T SELL--OVER \$10 I SELL.

HE UNDERSTOOD HE WAS SELLING FOR WHOLESALE AND
THAT THE MAN WOULD RESELL AT A MUCH HIGHER PRICE--FOR RETAIL.

BECAUSE THIS WAS A VERY CONCRETE TRANSACTION, MY SON
PICKED ALL THIS UP QUICKLY. HE SOLD HIS HELMET FOR \$15--AND THEN
PROMPTLY TURNED TO ME AND TOLD ME TO "GO OUT AND FIND HIM MORE
HELMETS."

MANY GREAT THINGS GREW OUT OF THE HELMET DEAL. MY SON
WAS VERY PROUD--HE HAD BEEN A GOOD DEAL MAKER.

THE \$15 WENT INTO A BANK ACCOUNT WHICH WAS STRICTLY
MY SON'S.

AND WE WERE IN THE FLEA MARKET BUSINESS TOGETHER.

I VIVIDLY REMEMBER ONE OF OUR FIRST TRANSACTIONS.

I HAD BOUGHT AT A COUNTRY AUCTION 6 FLOOR LAMPS FOR \$6.00--
\$1.00 EACH. WHEN I BROUGHT THEM HOME, MY WIFE GREETED ME WITH
"NO ONE WILL WANT THAT JUNK." BUT I GAVE SEVERAL AWAY TO LAW
STUDENTS AND MAYBE SHE THREW SOME OUT.

ANYWAY, I HAD ONE LEFT AND WE SET IT UP AT THE FLEA MARKET
WE WERE DOING. SINCE THIS WAS MY SON'S FIRST TIME OUT I
CLEARLY EXPLAINED TO HIM (OR I THOUGHT I WAS CLEAR):
WE MARK THE LAMP \$6.00 AND IF SOMEONE BARGAINS--WE SELL IT FOR \$5.00.

WELL, WITHIN MINUTES A FELLOW COMES ALONG AND SAID:
"IS THIS FLOOR LAMP \$6.00--I WILL TAKE IT."

AND MY SON, MILES, JUMPED UP AND SAID: "NO, MISTER--
YOU HAVE TO BARGAIN AND THEN YOU CAN GET IT FOR \$5.00."

AT THAT MOMENT, I KNEW THAT YOU NEED PATIENCE AND YOU
HAVE TO START EARLY.

BUT ABOUT A YEAR LATER, MILES AND I WERE DOING A SHOW AND WHEN THE LADY ASKED ABOUT WHETHER A MAJONG SET WE HAD WAS OLD (MILES AND I HAD BOUGHT IT AT A TAGE SALE), MILES REPLIED: "OLD, YOU SHOULD HAVE SEEN HOW OLD THE LADY WAS I BOUGHT THIS FROM AND I THINK SHE INHERITED IT FROM HER GREAT GREAT GRANDMOTHER!"

MILES HAD COME TO UNDERSTAND THE FLEA MARKET BUSINESS-- BETTER THAN MANY, MANY ADULTS.

MILES DID NOT SELL THAT SET TO THAT LADY. HE WENT DOWN FROM AN ASKING PRICE OF \$22 TO \$17, BUT THE LADY ONLY OFFERED \$15.

SEVERAL WEEKS LATER, WHEN MILES WAS AWAY IN SUMMER SCHOOL, I DID SELL THE SET FOR HIM TO SOMEONE ELSE--FOR HIS ORIGINAL ASKING PRICE-- \$22.

Miles UNDERSTOOD BUSINESS.

MILES GOT TO THE POINT WHERE HE COULD SET UP A SHOW COMPLETELY BY HIMSELF AND HE WAS IN CHARGE OF THE ENTIRE OPERATION. I STOOD BACK AND LET MILES TAKE OVER.

HE ONCE SUFFERED THE AGONY OF BREAKING AN ANTIQUE PLATE AND SEVERAL TIMES WE CLOSED UP BECAUSE OF RAIN. HE FOUND THAT LEARNING WHAT TO BUY AND HOW MUCH TO PAY FOR IT IS THE MOST DIFFICULT AND FRUSTRATING PART OF THE BUSINESS. BUT HE HAD THE ECTASY OF HAWKING HIS WARES IN THE FREE MARKET PLACE AND SELLING THE PIECE WE THOUGHT WAS REALLY UNSALEABLE.

ALSO FLEA MARKET HELPED MILES AND I DEVELOP A COWORKER RELATIONSHIP—AN EQUALITY OF POSITION BETWEEN THE TWO OF US WITH REGARD TO THAT BUSINESS. AND THEN MILES WAS INTELLIGENTLY ABLE TO DIRECT AND LEAD ME.

MILES ALSO LEARNED TO DEAL WITH A FRIEND WHO SHARED OUR BOOTH, OTHER FLEA MARKETERS AND THE PUBLIC AT LARGE. THE EXPERIENCE MADE MILES GROW.

MILES IS NOW 16 YEARS OLD. NOT ONLY DOES HE HAVE HIS OWN BANK ACCOUNT--HE HAS HIS OWN STOCKBROKER. HE IS RESPONSIBLE FOR HIS OWN INVESTMENT DECISIONS. PART OF HIS INVESTED FUNDS ARE IN HIGH YIELDING BONDS. EVERY MONTH HE GETS A CHECK FROM THIS INVESTMENT--CONCRETE PROOF THAT SAVING MONEY PAYS. MILES TOOK A COURSE IN BASIC BUSINESS IN HIGH SCHOOL WHICH WAS VERY, VERY, HELPFUL. IT STRESSED THE DIFFERENCE BETWEEN ONE'S NEEDS (WHICH ARE MINIMAL) AND ONE'S WANTS.

I FIRMLY BELIEVE MILES WILL BE ABLE TO KEEP HIS "WANTS" WITHIN BUDGET AND THAT HE WILL BE ABLE TO MEET HIS "NEEDS."

MILES SNOW SKIS AND WATER SKIS. HE HAS FLOWN A PLANE AND ALTHOUGH HE IS BASICALLY NOT VERY ATHLETIC, HE IS ON THE JUNIOR VARSITY HIGH SCHOOL FOOTBALL TEAM. HE HAS ^{pretty much} GIVEN UP FLEA MARKETING. HE NOW HOLDS A RESPONSIBLE PART-TIME JOB AS A BUS BOY. HE FEELS THAT HE IS A GOOD BUS BOY AND I THINK HE MUST BE. HE TAKES HIS WORK SERIOUSLY. HE IS INTERESTED IN A CAREER IN HOTELS.

MILES HAS HAD TO WORK THROUGH MANY DIFFICULT PROBLEMS AND HE HAS MANY MORE TO FACE. HE HAS HAD THE HELP OF MANY PATIENT, LOVING AND DEDICATED PEOPLE. TO THE EXTENT THAT MILES, OR ANY LEARNING DISABLED CHILD, IS MADE TO FEEL THAT HE OR SHE CAN DEAL WITH HIS OR HER OWN LIFE, THE CHILD CAN, IN THE FUTURE, ADJUST FAMILY AND LIFESTYLE TO MEET ^{the} NEEDS AND THE REALITIES OF THEIR LIVES.

MILES HAS A GOOD ATTITUDE--A GOOD FEELING ABOUT HIMSELF--
AND SOME GOOD TRAINING. MILES STILL STRUGGLES WITH MANY
DIFFICULT PROBLEMS, INCLUDING RECONCILING HIS CHECKING ACCOUNT--
BUT THIS, AS WELL AS OTHER THINGS, WILL COME ALONG IN TIME.

IN TWO WEEKS MILES IS SCHEDULED TO ADDRESS A GROUP OF
YOUNGER SCHOOL CHILDREN IN NEW YORK CITY--UNDER A LIVE HERO
PROGRAM. MILES WILL BE PRESENTED AS A CHILD WITH LEARNING
DISABILITY WHO HAS BEEN ABLE TO SUCCEED.

I DO NOT SEE A LIFETIME TRUST FOR SOMEONE LIKE MILES.
I DO NOT SEE TREATING THIS TYPE OF CHILD DIFFERENTLY IN A WILL
FROM HIS BROTHERS AND SISTERS, EXCEPT PERHAPS FOR MAKING SPECIAL
PROVISION FOR ANY NEEDED ADDITIONAL EDUCATION.

MILES ATTENDS A REGULAR PUBLIC HIGH SCHOOL WHERE HE STRUGGLES WITH MODIFIED COURSES. IN THE SUMMER HE GOES TO LANDMARK SCHOOL—A SCHOOL FOR LEARNING DISABLED CHILDREN.

I WENT TO LANDMARK LAST SUMMER AND INTERVIEWED CHILDREN AGES 16, 17 AND 18. I ASKED THEM IF THEY WANTED TO HAVE A TRUST SET UP FOR THEM SO THEY WOULD HAVE SOMEONE TO TAKE CARE OF FINANCIAL MATTERS FOR THEM FOR THEIR LIVES.

THEY ALL SAID: "No." THEY WANTED TO BE TREATED LIKE NORMAL PEOPLE. TO THEM, NORMAL PEOPLE DO NOT HAVE TRUSTS—THEY DO NOT GET FAVORED FINANCIAL TREATMENT IN WILLS.

THEY WANTED TO BE GIVEN THE CHANCE TO DO THEIR BEST FOR THEMSELVES ON THEIR OWN.

THEY FELT THEY COULD SUCCEED. I WAS NOT SURPRISED AT THEIR FEELINGS.

SETTING UP A LIFETIME TRUST FOR SOMEONE SAYS SOMETHING
NEGATIVE ABOUT YOUR FAITH IN THE INDIVIDUAL.

IT SHOWS THAT YOU CARE ABOUT THE PERSON--THAT YOU LOVE
THE PERSON--BUT DO YOU TRUST THE PERSON?

WHAT ARE YOU REALLY SAYING TO SOMEONE WHO YOU FEEL NEEDS
A LONG TERM TRUST?

BEYOND THAT IMPORTANT QUESTION, SOME OF THE DISADVANTAGES
OF LONG TERM TRUST SHOULD BE HIGHLIGHTED:

1. THERE MAY BE RELATIVELY HIGH ADMINISTRATIVE COSTS.
2. THERE MAY BE A LACK OF FLEXIBILITY.
3. THERE MAY BE A POOR INVESTMENT PERFORMANCE ON THE
PART OF THE TRUSTEE.
4. INFLATION MAY TAKE ITS TOLL.

IF A FAMILY MEMBER--SUCH AS AN OLDER BROTHER OR SISTER IS
MADE A TRUSTEE, THERE MAY BE ANGER CREATED IN THE LEARNING DISABLED
CHILD AGAINST THAT PERSON.

FURTHERMORE, THE OTHER CHILD MAY FEEL UNJUSTLY BURDENED,
 AND THIS BURDEN MAY COME AFTER EARLIER FEELINGS THAT THE
 LEARNING DISABLED CHILD WAS GIVEN EXTRA LOVE AND ATTENTION
^{IN FACT:} (EXTRA ATTENTION MAY WELL HAVE BEEN ^{GIVEN} ~~THE CASE~~ - BECAUSE OF
 NECESSITY). THE ULTIMATE IRONY--WHICH CAN OCCUR--IS THAT THE
 LEARNING DISABLED CHILD--WHO WAS NEVER EXPECTED TO BE ABLE
 TO STAND ALONE--MAY TURN OUT TO BE A STRONGER MORE COPING
 ADULT THAN THE SIBLING WHO WAS MADE TRUSTEE.

IT JUST MAY BE BETTER TO TAKE THE RISK-- PREPARING
 THE CHILD--AS BEST AS POSSIBLE--TO SEE TO THE PRESERVATION OF
 HIS OR HER OWN RESOURCES.

IF A LONG TERM TRUST IS TO BE USED, PERHAPS IT CAN BE
 ONLY A BACK-UP TRUST--FOR ONLY A PART OF THE ASSETS--ONE-HALF
 OUTRIGHT--ONE-HALF IN TRUST.

OR, PERHAPS A TRUST CAN BE CREATED FOR A CLASS OF CHILDREN--
 FOR ALL OF THE CHILDREN--WITH THE DISCRETION IN THE TRUSTEE TO
 PAY OUT SO MUCH AS NECESSARY FOR ANY NEEDY CHILD.

LIFE IS FUNNY--IT CAN BE THE NON-LEARNING DISABLED CHILD--
THE ONE NO ONE EVER WORRIED ABOUT--WHO DEVELOPES THE UNEXPECTED
SERIOUS PROBLEM.

TO SUM UP, IN MY VIEW, THE GOAL FOR THE MID RANGE LEARNING
DISABLED CHILD IS COMPLETE FINANCIAL INDEPENDENCE.

THE STEPPING STONES TOWARDS REACHING THE GOAL ARE HONESTY
IN FACING THE PROBLEM, SETTING REASONABLE GOALS, TRAINING FOR
PROPER ATTITUDE, DEVELOPING THE NEEDED EXPERIENCES AND FINDING
THE NECESSARY TRUST AND FAITH.

IN THE ESTATE PLANNING PROCESS, IN MAKING THE DECISIONS I
HAVE DISCUSSED, PARENTS HAD BEST USE THEIR BEST SENSE OF THE
SITUATION. THE MATTER DEFYS RIDGED RULES/AND PROFESSIONALS--
SUCH AS LAWYERS--WILL NEED TO BE BETTER EDUCATED TO THE REALITIES
OF THE POTENTIAL OF LEARNING DISABLED CHILDREN--BEFORE THEY CAN BE
COUNTED ON TO GIVE APPROPRIATE ADVICE.

THE ESTABLISHMENT OF A LIFETIME TRUST IS NO PANACEA. THE
DISADVANTAGES AND THE POTENTIAL HURT TO THE CHILD'S EGO ARE SUB-
STANTIAL.

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but IF THE GOAL OF FULL CONTROL OF FINANCES BY THE CHILD IS NOT REALISTIC, ONLY PARTIAL USE OF A TRUST SHOULD BE CAREFULLY CONSIDERED. CONTROLS PROVIDED TO THE CHILD OVER THE TRUST-- SUCH AS THE POWER TO SHIFT ONE CORPORATE FIDUCIARY FOR ANOTHER-- MAY SOFTEN THE FEELING OF LOSS OF CONTROL BY THE CHILD. SIMILARLY, THE UNQUALIFIED POWER HELD BY THE CHILD TO WITHDRAW A SPECIFIED AMOUNT FROM THE TRUST ANNUALLY REPRESENTS ANOTHER TECHNIQUE FOR PROVIDING SOME CONTROL SHORT OF FULL CONTROL. A CUSTODIANSHIP ARRANGEMENT WHERE THERE IS PROFESSIONAL MANAGEMENT OUTSIDE OF A FORMALIZED TRUST IS AGAIN A LESS FORMAL, CHEAPER AND MORE FLEXIBLE ARRANGEMENT.

IDEALLY, THE DECISION ON THE MOST APPROPRIATE PLAN ~~SHOULD~~ BE MADE AFTER CONSULTATION BETWEEN ALL OF THE PARTIES--AND PARTICULARLY CONSULTATION WITH THE CHILD. BEING BROUGHT INTO THE DECISION MAKING PROCESS WOULD INSURE THE CHILD THAT HIS FEELINGS AND NEEDS WERE PARAMOUNT. IF SOME TRUST ARRANGEMENT APPEARS MOST SENSIBLE TO PARENTS IT MAY ALSO APPEAR MOST SENSIBLE TO THE CHILD.

THE DIFFERENCE BETWEEN SHARING DECISION MAKING AND "BEING TOLD WHAT IS GOING TO BE DONE--WHETHER YOU LIKE IT OR NOT" IS A VITAL ONE.

IN THIS SENSE ESTATE PLANNING BY PARENTS OF A LEARNING DISABLED CHILD FOR THE CHILD IS SIMPLY A SMALL PART OF A LARGER PICTURE WHICH, IDEALLY, IS BUILT ON COMMUNICATION, MUTUAL RESPECT, COOPERATION, AND WORKING TOWARDS REASONABLE GOALS.